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10/685,300	10/14/2003	Karl Guenther	32022	9836

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EXAMINER

MCCARRY JR, ROBERT J

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 83, 86 and 87 are rejected under 35 U.S.C. 102(b) as being anticipated by Rypinski (US 3,861,315).

Rypinski discloses a transportation system comprised of a running surface 4 suspended above ground level by columns 2 and constructed of I beams to form an inverted U shaped structure. The system is further comprised of a carrying vehicle, or truck 62, 63, 64, 65, which operates along running surface 4 and suspends a car body 6, 7 below. Figure 1 shows the system to be elevated above the ground while figures 32 and 33 show the track to have a super elevated portion. The Examiner has interpreted the super elevated portion to be elevated at a height greater than the elevated structure shown in figure 1. Figures 32 and 33 also show the super elevated portion to be elevated at an angle greater than eight degrees. Figure 31 shows the wheels 143 of the carrying vehicle to have small bearings 145 that engage a camming surface 148 so as to keep the wheel centered on the track.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 85 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rypinski (US 3,861,315).

Rypinski discloses the transportation system as described above. However, Rypinski does not disclose the use of steel wheels. Rypinski simply states that the wheels be made of "suitable material" as stated in column 9 lines 20-23. It is well known in the art that various tracked vehicle use steel wheels to add strength to the vehicle and to prolong the life of the wheels. It would be obvious to one of ordinary skill in the art to have applied steel wheels to a system, like that of Rypinski, in order to add strength to the vehicle so as to be able to carry larger, heavier loads.

***Allowable Subject Matter***

Claim 84 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1, 2, 4-16, 19-24, 26, 28, 30-38, 41, 43-45 and 60-82 are allowed.

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. McCarry, Jr. whose telephone number is (571) 272-6683. The examiner can normally be reached on Monday through Friday 7:00am to 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (571) 272-6684. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert J. McCarry, Jr.  
Examiner  
Art Unit 3617

RJM  
January 11, 2006



S. JOSEPH MORANO  
SUPERVISORY PATENT EXAMINER  
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